

STEVEN M. GOMBOS (VA SBN 30788) (Admitted pro hac vice)
Ritzert & Leyton, P.C.
11350 Random Hills Road, Suite 400
Fairfax, VA 22030
Telephone: (703) 934-2660
Facsimile: (703) 934-9840
Email: sgombos@ritzert-leyton.com

LELAND B. ALTSCHULER (SBN 81459)
2995 Woodside Road, Suite 350
Woodside, CA 94062
Telephone: (650) 328-7917
Facsimile: (650) 989-4200
Email: lee@altschulerlaw.com

Counsel for Defendant
Stephens Institute
d/b/a Academy of Art University

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA, *ex rel.*
SCOTT ROSE, MARY AQUINO,
MITCHELL NELSON AND LUCY
STEARNS,

Plaintiffs,

vs.

STEPHENS INSTITUTE, a California
corporation, doing business as ACADEMY
OF ART UNIVERSITY and DOES 1 through
50, inclusive,

Defendant.

Case No.: C-09-5966 PJH

NOTICE OF RECENT DECISION

Date: November 9, 2016

Time: 9:00 A.M.

Courtroom: 3

Judge: Hon. Phyllis Hamilton

Defendant, Academy of Art University (“AAU”), respectfully submits this Notice of Recent Decision in connection with AAU’s Motion to Amend the Court’s September 20, 2016 Order to Permit Interlocutory Appeal (ECF Doc. 212), in accordance with Local Rule 7-3(d)(2).

AAU refers this Court to the recent decision of the United States Court of Appeals for the Seventh Circuit in United States v. Sanford-Brown, No 14-2506, 2016 U.S. App. LEXIS 19195 (7th Cir. Oct. 24, 2016).

On remand from the Supreme Court to reconsider its prior decision (788 F.3d 696) in light of the Escobar decision (see U.S. ex rel. Nelson v. Sanford-Brown, Ltd., 136 S.Ct. 2506 (2016)), the Seventh Circuit issued two holdings relevant to this case. First, the Seventh Circuit held that summary judgment was appropriate because the relator’s implied certification claim failed to establish Escobar’s two conditions (see *1-2). Second, the Seventh Circuit held that the relator failed to establish that the defendant’s alleged noncompliance with Title IV regulations (including the incentive compensation ban) was material to the Department’s payment decision (see *3).

Please find attached to this notice a copy of the Seventh Circuit’s recent decision.

Respectfully Submitted,

Dated: October 27, 2016

/s/

Steven M. Gombos, VA No. 30788
(admitted *pro hac vice*)
Ritzert & Leyton, P.C.
11350 Random Hills Road, Suite 400
Fairfax, Virginia 22030
Telephone: (703) 934-2660
Facsimile: (703) 934-9840
Email: sgombos@ritzert-leyton.com
Lead Counsel for Defendant

CERTIFICATE OF SERVICE

I certify that I will/have electronically file(d) the foregoing with the Clerk of the Court using the CM/ECF system which shall cause the same to be delivered to the following via electronic transmission to the following counsel:

Stephen R. Jaffe	stephen.r.jaffe@jaffetrialaw.com
Michael Von Loewenfeldt	mvl@kerrwagstaffe.com, phan@kerrwagstaffe.com
Brady R. Dewar	dewar@kerrwagstaffe.com, bechtol@kerrwagstaffe.com
Kenneth P. Nabity	nabity@kerrwagstaffe.com, dwyer@kerrwagstaffe.com
Ila Casy Deiss	ila.deiss@usdoj.gov
Brenda Lukaitis	brenda.lukaitis@usdoj.gov
Carolyn Jusay	carolyn.jusay@usdoj.gov
Hector Lopez	hector.lopez2@usdoj.gov
Tiffani Chiu	tiffani.chiu@usdoj.gov
Tine Louie	tina.louie@usdoj.gov
Jonathan H. Gold	jonathan.gold@usdoj.gov
Kimberly Friday	kimberly.friday@usdoj.gov

_____/s/
Steven M. Gombos
Attorney for Defendant